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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,719	12/20/2001	Mark M. Mleziva	KCX-50-DIV (12731.1)	2252

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EXAMINER

JUSKA, CHERYL ANN

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 04/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,719

Applicant(s)

MLEZIVA ET AL.

Examiner

Cheryl Juska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-23 is/are allowed.
- 6) ☒ Claim(s) 1-17, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Amendment B, submitted as Paper No. 5 on February 24, 2003, has been entered. The specification and claims 1, 10, 18, and 28 have been amended as requested. The pending claims are 1-23, 28, and 29.
2. Applicant's arguments with respect to the 112, 2nd rejection of claim 2 have been found persuasive. Hence, said rejection set forth in section 4 of the last Office Action is hereby withdrawn. Additionally, Amendment B is sufficient to withdraw the 112, 2nd rejection of claims 28 and 29 as set forth in section 5 of the last Office Action.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1, 2, 6, 7, 9, 10, 11, 16, 17, 28, and 29 rejected under 35 USC 103(a) as being unpatentable over US 5,382,400 issued to Pike.

Said claims were previously rejected under 102 as being anticipated by the cited Pike reference. Amendment B limits the butylene-propylene copolymer of independent claims 1, 10, and 28 to *consist* of butylene and propylene monomer units. Since Pike does not teach this new limitation, the 102 rejection has been withdrawn. However, it is asserted that the claims are obvious over Pike.

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In particular, the limiting of the butylene-propylene copolymer to exclude other monomers does not manipulatively effect the claimed process of forming a nonwoven web. Pike teaches various additives are employable as part of polymer component B in the disclosed process. See col. 6, line 47-col. 7, line 7. Thus, one must presume that said additives do not manipulatively effect said process. Hence, it would have been obvious to one of ordinary skill in the art to employ the process disclosed by Pike (i.e., melt spinning bicomponent filaments containing a crimp additive, drawing said filaments, crimping said filaments, and forming a nonwoven web of said filaments) even though a slightly different additive is employed as a starting material. Thus, claims 1, 2, 6, 7, 9, 10, 11, 16, 17, 28, and 29 are rejected as being obvious over the cited Pike reference.

5. Claims 1-7, 9-12, 16, 17, 28, and 29 are rejected under 35 U.S.C. 103(a) as unpatentable over European Patent 395 336 issued to Kaneko et al.

As with the Pike rejection above, said claims were previously anticipated by the cited Kaneko reference. However, Amendment B necessitates a change in the rejection from 102 to 103. It would have been obvious to one of ordinary skill in the art to employ the process disclosed by Kaneko even though a slightly different additive is employed as a starting material, since Kaneko teaches various crimp additives are suitable for the inventive process. Thus, claims 1-7, 9-12, 16, 17, 28, and 29 are rejected as being obvious over the cited Kaneko reference.

6. Claims 8 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Kaneko reference for the reasons of record. (See section 5 above and sections 10 and 11 of the last Office Action.)

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Allowable Subject Matter

7. Claims 18-23 are allowed. The prior art does not teach or fairly suggest the presently claimed nonwoven web of spunbond multicomponent crimped filaments which contain a crimp additive of a random copolymer *consisting of* butylene and propylene units.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Cheryl Juska whose telephone number is 703-305-4472. The Examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



CHERYL A. JUSKA
PRIMARY EXAMINER

cj
April 24, 2003